

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

ODI LUKE SANCHEZ,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION FOR NEW COUNSEL

Case No. 2:05-CR-205 TS

This matter is before the Court on Defendant's Motion for Counsel to Withdraw, which was presented to the Court, along with a letter written by Defendant, on March 1, 2006, on this, the first day of trial. For the reasons discussed below, the Court will deny Defendant's Motion, will not appoint new counsel and will proceed to trial as scheduled.

Defendant was arraigned on April 1, 2005, and on that date Steven McCaughey was appointed as counsel for Defendant. Later, Defendant retained Robert M. Archuleta as Defendant's counsel and Mr. McCaughey withdrew. Defendant then filed a Motion for Counsel to Withdraw¹ where he sought to have Mr. Archuleta withdraw, citing ineffective assistance of counsel, failure to follow instructions, lack of communication and understanding, and conflicts of

¹Docket No. 64.

interest. Along with Defendant's Motion, Mr. Archuleta filed an Application to Withdraw citing a number of difficulties with Defendant.² Magistrate Judge Nuffer held a hearing on the Motion on December 8, 2005. Magistrate Judge Nuffer granted the Motion to Withdraw and Mr. Archuleta withdrew as counsel. At the hearing, Mr. McCaughey was re-appointed as counsel.

On March 1, 2006, before trial began in this matter, Defendant presented the Court with a letter and accompanying Motion seeking new counsel and to have Mr. McCaughey withdraw as counsel. Defendant stated that he did not feel comfortable with Mr. McCaughey, that he did not feel that Mr. McCaughey was helping with his case, and that he wanted a new attorney. Defendant also complains of the fact the Mr. McCaughey failed to appear at the final pretrial conference in this matter. Mr. McCaughey was not present at the hearing, but Fred Metos, an attorney who shares office space with Mr. McCaughey, and Jeremy Delicino, co-counsel in this case, were present at the hearing and represented Defendant at that hearing. The Court notes that these are substantially the same complaints that Defendant raised regarding his previous counsel, Mr. Archuleta.

In response to the Motion, Mr. McCaughey detailed his activities in preparing for this trial and also stated that Defendant disagreed with his advice that it would be in Defendant's best interest to plead guilty in this matter. The Court then orally denied Defendant's Motion.

The Court finds it necessary to detail the actions Mr. McCaughey's actions in preparing for trial in this matter. Mr. McCaughey has represented that he has met with Defendant on multiple occasions to discuss this case, that he has interviewed witnesses in both Utah and California, and that he has taken other steps in anticipation of trial. Additionally, the Court notes


²*Id.*

that Mr. McCaughey has filed a Motion to Dismiss³ on behalf of his client, which was ultimately denied by the Court.

The Court finds that Mr. McCaughey, along with his co-counsel Jeremy Delicino, are highly regarded by the Court and the Court has had the chance to witness their abilities on multiple occasions. The Court recognizes Defendant's complaints concerning his counsel, but finds that they are insufficient to warrant the appointment of counsel at this late date. This is especially true considering Mr. McCaughey's activities in preparing for this trial and that Defendant's complaints concerning Mr. McCaughey are substantially similar to the complaints Defendant logged against his prior counsel, Mr. Archuleta. For these reasons, the Court will DENY Defendant's Motion for Counsel to Withdraw (Docket No 92).

DATED March 1, 2006.

BY THE COURT:



TED STEWART
United States District Judge

³Docket No. 86.